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COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

v.

CASE NO. PUE990619

ROBERT A. WINNEY

**d/b/a THE WATERWORKS COMPANY
OF FRANKLIN COUNTY,
Defendant**

HEARING EXAMINER'S RULING

December 8, 1999

On December 3, 1999, the Defendant filed a request to continue the Rule to Show Cause hearing that is scheduled for December 14, 1999. In support of his request, Defendant represented that he contacted a number of attorneys in his area to represent him before the Commission, but was unsuccessful in his attempt to retain legal counsel. The Defendant stated he would not appear before the Commission unless represented by counsel.

The Defendant has a right to be represented by counsel in a proceeding before the Commission. However, the Defendant does not have a right to trifle with the Commission by unreasonably delaying the retention of counsel. The tenor of Defendant's letter dated November 15, 1999, filed with the Clerk of the Commission, made it appear he was represented by counsel. Based on that filing, the Rule to Show Cause hearing was continued for the first time from November 30, 1999, to December 14, 1999. It now appears from Defendant's December 3, 1999, filing that he is not represented by counsel and is seeking to further delay this proceeding to retain counsel.

Due process considerations support a continuance in order for Defendant to retain counsel. A continuance of thirty (30) days is sufficient time for Defendant to retain counsel and for his counsel to prepare for the Rule to Show Cause hearing. No other requests for a continuance will be considered unless for extraordinary cause shown.

I find that the hearing scheduled herein on December 14, 1999, should be continued. Accordingly,

IT IS DIRECTED:

- (1) That the Rule to Show Cause hearing scheduled for December 14, 1999, be and it is hereby, rescheduled for 2:00 p.m. on January 11, 2000, in the General District Courtroom, Franklin County Courthouse, 275 South Main Street, Rocky Mount, Virginia; and

- (2) That counsel for the Defendant shall, on or before January 5, 2000, file a notice of appearance, referencing the case number of this proceeding, with the Clerk of the Commission, P.O. Box 2118, Richmond, VA 23218-1197.

Michael D. Thomas
Hearing Examiner